

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

MONDAY, THE 8TH OCTOBER 2007 / 16TH ASWINA 1929

OP.No. 28454 of 2000(K)

PETITIONERS:

- 1. P.J.RAJU, AGED 45 YEARS, (MANAGER
AMBOLIL AYURVEDIC SALE),
S/O. YOHANAN, TIJU BHAVANAM,
KURUMBAKKARA P.O.,
PATHANAMTHITTA DISTRICT.**
- 2. C.SUKUMARAN, ATGED 69, S/O. CHAKRAPANI,
NIRAPPUVILA VEEDU, KURUMBAKKARA ,
PATHANAMTHITTA DISTRICT.**
- 3. A.M.MATHEW, AGED 55 YEARS, ATHINILKUNNATHIL,
MUNJUAKAL P.O., KODAL, PATHANAMTHITTA.**
- 4. JOSE PRAKASH, AGED 40 YEARS, S/O. P.K.ABRAHAM,
PALCHAKKAL HOUSE, NJATTUNILAM P.O.,
VIA, KOTTAYAM, PATHANAMTHITTA DISTRICT.**
- 5. PRASANAKUMAR P.T., AGED 39 YEARS,
S/O. THANKAPPAN NAIR, PARAKKATTU,
KADAMMANITTA P.O.,
PATHANAMTHITTA DISTRICT.**
- 6. SAMUEL GEORGE, AGED 31 YEARS, S/O. GEORGE,
KALLANANIYIL VEDU,
KADAMMANITTA P.O., PATHANAMTHITTA DISTRICT.**
- 7. C.V.ABRAHAM, AGED 52 YEARS,
S/O. OOMMEN VARGHESE, CHANAKKLAYIL,
NELLIKALA P.O.,
ELAVITHOOR, PATHANAMTHITTA.**
- 8. GEEVARGHESE. V.M., AGED 43 YEARS,
S/O. MATHAI, VALLYAATHU VEEDU,
VAYALA P.O. PARAKKODE.**

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- 9. BHARGAVAN P8ILLAI.P., AGED 54 ,
S/O. PARAMESWARAN NAIR,
THEVAYOOR, VADKKU, MANAKKALA P.O.,
ADOOR.**
- 10. RAGHAVAN VAIDYAR K.K., AGED 63 , S/O. NANU VAIDYAR
NAMBONAZHIKATHEU VADDAKKETHIL,
MANNADY P.O., MANNADY.**
- 11. VIKRAMAN NAIR.N., AGED 36, S/O. K.NANU PILLAI,
PUTHENVEETIL, ALAYAMON P.O.,
ANCHEL KOLLAM DISTRICT.**
- 12. AMIRTHDANADHAN K., AGED 48 ,
S/O. KRISHNAN, HEBY NIVAS, VALAVU PACBA P.O.,
CHITHARS, KOLLAM DISTRICT.**
- 13. C.GOPAK PILLAI, AGED 58, S/O. CHELLAPPAN
PILLAI, KATIYILILKADA, AYKLARA P.O., EROOR,
KOLLAM DISTRICT.**
- 14. AJI BABY, AGED 23, NIRAPPIL, PUTHENVEEDU,
MANJAKALA P.O., PANAMPETTA P.O., KOLLAM
DISTRICT.**
- 15. B.ANIL KUMAR, AGED 34, S/O. BHASKARAN NAIR,
MANAL PUTHENVEEDU, KALANJOOR P.O.,
PATHANAMTHITTA.**
- 16. NARAYANAN NAIR.V., AGED 70,
S/O. VELAYUDHAN NAIR,
OKMANNUKIZHAKKETHIL, KALANJOOR P.O.**
- 17. ULAS D., AGED 36 , S/O. DAMODHARAN NAIR,
KAILAS HOSPITAL, NEELESWARAN
P.O. KOTTARAKARA, KOLLAM DISTRICT.**
- 18. GOERGE VAIDYAN, AGED 63,
AMBOLI AGENCY, PARANGIMAMUKAL,
P.O. THALAVOOR, KOLLAM DISTRICT.**
- 19. SAJEEV , AGED 30, THENGUVILA AGENCY,
PARAKODE P.O. ADOOR,
PATHANAMTHITTA DISTRICT.**
- 20. PRADEEP V., AGED 30, S/O. VIDNHYADHARAN,
KADAYIL VEEDU, NEDUMPARABU P.O.,
TRIVANDRUM.**

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- 21. SHAJAHAN, AGED 33, HIDA NIVAS,
NJARANEELI, ILLANJIYAM P.O.,
PALODE, TRIVANDRUM.**
- 22. D.LAL, AGED 32, S/O. DIVAKARAN, KADAYIL VEEDU,
VELLANCHIRA, PANAVOOR P.O.,
NEDUMANGADU, TRIVANDRUM.**
- 23. K.V.SANTHOSH, AGED 35, S/O. VELAYUDHAN,
KANALAYAM KARATTE, VAMANAPURAM P.O.,
TRIVANDRUM.**
- 24. RAVINDRAN PILLAI K., AGED 58, VINU BHAVANAM,
PUNNALA P.O., CHACHIPPUNUS,
KOLLAM DISTRICT.**
- 25. JACOB JOHN, AGED 35, VANKKAVEETIL HOUSE,
PATTAZHI VADAKKEKKARA P.O.,
KOLLAM.**
- 26. THARAPPAN, AGED 58, SWAPANALAYAM, ATTACHAKKAL P.O.,
KONNI, PATHANAMTHITTA DISTRICT.**
- 27. UNNI PILLAI, AGED 32, AMBOLIL AGENCY,
MANCHALLOOR P.O.,
PATHANAPURAM, KOLLAM DISTRICT.**
- 28. V.KESAVA KAIMAL , AGED 50 , BIJU VILASAM,
NJAKKUNELAM P.O.,
VELLIKODE KOTTAYAM , PATHANAMTHITTA DIST.**
- 29. MOHANAN, AGED 40, AMBOLIL AGENCY, KALANJOOR P.O.,
PATHANAMTHITTA.**
- 30. GOPINATHAN P.K., AGED 55, AMBOLIL AGENCY,
KALANJOOR P.O.,
PATHANAMTHITTA.**
- 31. JAYACHANDRAN, AGED 26, S/O. SIVADASAN, VAIDYAR
KALLUPURATHU VEEDU, VELUMTHARA,
CHANNIPARABU P.O.,
KOLLAM DISTRICT.**
- 32. NAREENDRA, AGED 30 NANDUVILASAM,
KURUMPAKARA P.O., KUNNIDA.**

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- 33. INDIRAMMA, AGED 50, KADAMNKUZHIYIL,
KURUMPAKARA P.O., KUNNIDA.**
- 34. SHAJI . S., AGED 25, SHAJI BHAVAN, MUNDAPPATHI,
PARAKOTTAM P.O., ADOOR,
PATHANAMTHITTA.**
- 35. AJI, AGED 26, AMBOLIL AGENCY,
POOGAKALI PARATHOL P.O., PANDALAM THEKKEKARA,
PATHANAMTHITTA DISTRICT.**
- 36. PARAMESWARAN NAIR, AGED 50,
PARAMESWARATH VEEDU, ARUKALIKKAL,
VAYALA P.O.**
- 37. NARAYANA KURUP, AMBOLIL AGENCY,
PANNIVIZHA, ANANALAPPALLI P.O.,
ADOOR PATHANAMTHITTA.**
- 38. OMANAKUTTAN, CHARUVILAVEEDU,
MALOOR COLLEGE P.O.,
MALOOR , KOLLAM DISTRICT.**
- 39. JOSEPH JOHN, AGED 32, AMBOLIL
AGENCIES, MANDRALIMUKKU, VASIKKAVELIL,
PATTAZHIVADAKKEKARA P.O.**
- 40. BABY, AMBOLIL AGENCY, PARANTHAL P.O.,
PANDALAM THEKKEKARA, PATHANAMTHITTA DISTRICT.**
- 41. M.J.GEORGE, AGED 58, TIT BIT COLLEGE,
STADIUM JUNCTION, PATHANAMTHITTA DISTRICT.**
- 42. P.ANILKUMARA, AGED 28, S/O. PRABHAKARAN PILLAI,
ATTARUKIL PANAYIL PUTHENVEEDU, POONKODE,
CHADAYAMANGALAM P.O., KOLLAM DISTRICT.**
- 43. T.SAJEEV, AGED 28, S/O. V.THAKAPPA PILLAI,.
ETTIVILS VEEDU, VALANTHARA, CHARIPARAMBU P.O.,
KADAKKAL KOLLAM.**

**BY ADV. SRI.P.M.KUNJIMOIDEENKUTTY
SRI.SANJAI PADIYATH**

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RESPONDENTS:

- 1. STATE OF KERALA,
REP.BY CHIEF SECRETARY, SECRETARIAT,
TRIVANDRUM.**
- 2. THE COMMISSIONER OF EXCISE, OFFICE OF THE
BBOARD OF REVENUE, TRIVANDRUM.**
- 3. THE ASSISTANT COMMISSIONER OF EXCISE,
THIRUVANANTHAPURAM.**
- 4. THE ASSISTANT COMMISSIONER OF EXCISE,
KOLLAM.**
- 5. THE ASSISTANT COMMISSIONER OF EXCISE,
PATHANAMTHITTA.**
- 6. THE DISTRICT SUPERINTENDENT OF POLICE,
TRIVANDRUM.**
- 7. THE DISTRICT SUPERINTENDENT OF POLICE,
KOLLAM.**
- 8. THE DISTRICT SUPERINTENDENT OF POLICE,
PATHANAMTHITTA.**

BY GOVERNMENT PLEADER SMT.SMITHA SUKUMARAN

**THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 08/10/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

tss

OP. NO.29454/2000

ORDER ON CMP.47982/2000 IN OP. NO.28454/2000

DISMISSED

08.10.2007

SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE LICENSE NO.6/96-97 OT MANUFACTURE MEDICINAL AND TOILET PREPARATION CONTAINING ALCOHOL, OPM INDIAN HEMP AND OTHER NARCOTIC DRUGS AND NARCOTIC OUTSIDE BOND ISSUED IN FORM L- 2.

EXT.P2:- COPY OF THE LICENSE TO MANUFACTURE FOR SALE OF AYURVEDIC (INCLUDING SIDHA) OF UNNANI DRUGS ISSUED BY THE DRUGS CONTROLLER AND LICENSING AUTHORITY.

EXT.P3:- COPY OF THE ORDER IN OP. NO.2612/00 IN CMP. 4312/00.

EXT.P4:- COPY OF THE ORDER IN OP. NO.4002/907 IN CMP. NO.7357/97.

/TRUE COPY/

P.A. TO JUDGE

tss

Thottathil B. Radhakrishnan, J.

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O.P.No.28454 of 2000

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Dated this the 8th day of October, 2007.

JUDGMENT

Government Pleader appears for the respondents. Service complete.

2. The issue raised in this writ petition is as to the validity of Rule 11(b)(ii) of the Kerala Spirituous Preparations (Control) Rules, 1969, hereinafter referred to as the “Rules”, for short. That issue no more survives in view of the decision in **Muraleedharan Pillai v. State of Kerala (2006 (4) K.L.T. 254)**. Petitioners have filed C.M.P.No.47982 of 2000 seeking an interim order restraining the respondents from interfering in any manner with the sale of ayurvedic medicinal preparations by them without SP VII licence as per Rule 11(b)(ii) of the Rules. On 10-10-2000, the following interim order was passed on that application.

“Notice and interim direction as prayed for. But this will not prevent the excise authorities in testing or checking the

medicines to find out whether the medicines are prepared according to Sahasrayogam or other approved test and whether intoxicating liquors are sold there in the name of arishtams and asavams.”

In view of the aforesaid interim order and the aforesaid judgment, nothing survives in this writ petition. The same is closed directing that the parties will hereafter stand governed by the decision contained in **Muraleedharan Pillai's** case (supra).

**Thottathil B.Radhakrishnan,
Judge.**

sl.

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-:3:-

Thottathil B. Radhakrishnan, J.

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O.P.No.28454 of 2000
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JUDGMENT

Dated:8-10-2007